

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:17-cv-00854-TDS-LPA

REBECCA KOVALICH and SUZANNE)
NAGELSKI,)

Plaintiffs,)

v.)

PREFERRED PAIN MANAGEMENT &)
SPINE CARE, P.A., DR. DAVID SPIVEY,)
individually, and SHERRY SPIVEY,)
individually.)

Defendants.)

Exhibit 37



FOR SETTLEMENT PURPOSES ONLY

February 16, 2016

Via Overnight Mail

Dr. David L. Spivey, MD
President and CEO
Preferred Pain Management & Spine Care, P.A.
2912 Maplewood Avenue
Winston-Salem, NC 27103

Re: Sue Nagelski

Dear Dr. Spivey,

I represent Sue Nagelski in connection with her former employment as Financial Manager, Head of Human Resources and IT Specialist with Preferred Pain Management & Spine Care, P.A. (the "Company"). The Company terminated Ms. Nagelski on January 19, 2016, after over nine years of dedicated service. Based on what Ms. Nagelski has relayed to me, I am concerned that this termination may have violated various discrimination and retaliation laws and could have been tortiously induced by Ms. Sherry Spivey.

As already noted, Ms. Nagelski had a lengthy, nearly blemish-free, track record with the Company. However, in or around January 2015, dissension began between Ms. Nagelski and Ms. Spivey. Ms. Nagelski reported to me that Ms. Spivey was the source of this discord. In particular, Ms. Spivey began asking Ms. Nagelski for confidential information about the Company's financials. Ms. Nagelski viewed these requests as entirely inappropriate and refused. Ms. Spivey, in one response, literally screamed at Ms. Nagelski and others overheard this clamor. This treatment wasn't limited to Ms. Spivey. Additionally, Ms. Nagelski reported that you also screamed at her for being resistant to providing payroll information to, what Ms. Nagelski viewed as, an inappropriate recipient. This situation snowballed, and eventually culminated in Ms. Spivey, and later you, to be openly hostile towards Ms. Nagelski and seeking her ouster for reasons wholly unrelated to her work performance.

What's more, on or around July 23, 2015, Ms. Spivey contacted Ms. Nagelski about the termination of three employees. Ms. Nagelski was not comfortable with these terminations and made this clear to you. Specifically, she viewed them as potentially illegal and warned that the

three employees could very likely go directly to the EEOC and file discrimination charges. It was clear that her input on this topic was not welcomed by you.

On or around December 1, 2015, the Company removed Ms. Nagelski's HR duties and gave them to Wendy Yontz, a significantly younger former bridal consultant with substantially less experience than Ms. Nagelski. When Ms. Nagelski observed Ms. Yontz commit various wage and hour infractions and possible ERISA violations, she raised the issues with you; however, you didn't take her complaints seriously.

Soon thereafter, on January 19, 2016, the Company terminated Ms. Nagelski. Following this decision, it decided to fire two other female employees over the age of 40. To Ms. Nagelski's knowledge, these women, like her, had no known discipline or poor written reviews.

I hope this information has been useful in giving you a preliminary understanding of Ms. Nagelski's perspective in this matter. For my part, I am concerned that the confluence of these issues factored into her termination. Please contact me by **February 24, 2016**, so we can discuss the matter further. I am eager to learn more about the Company's perspective and will give due consideration in advising Ms. Nagelski on an appropriate counteroffer to any facts you provide that compromises what she's told me. Although I am hired to litigate this matter, I believe I can be a positive force in bringing this matter to a fair and expeditious conclusion.

I look forward to working with you or appropriate counsel.

Sincerely yours,



Sean F. Herrmann, Esq.